



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

204

CRM-M-9114-2015 (O&M)

Date of decision: 03.05.2025

Ravi Narang

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Randhawa, Advocate
with Mr. Anuj Chauhan, Advocate
Ms. Kavita Joshi and Mr. Rajinder, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

None for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 482 of Cr.P.C., is for quashing the order dated 29.07.2011 (Annexure P-1), passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby the petitioner has been summoned to face trial as additional accused under Section 319 Cr.P.C. and for quashing the judgment dated 07.01.2015 (Annexure P-2), passed by learned Additional Sessions Judge, Ludhiana, whereby the revision filed by the petitioner against the order dated 29.07.2011, has been dismissed.

2. The brief facts of the case are that the complainant/respondent No.2 got registered an FIR No.144 dated 20.07.2005 under Sections 406 and 420 IPC at Police Station Division No.7, Ludhiana, alleging that accused Gurmeet Lal, in conspiracy with



the present petitioner – Ravi Narang, fraudulently got a sale deed registered in the petitioner’s favour with the intent to deprive her of a plot. Upon investigation, the police filed a final report under Section 173 Cr.P.C. only against Gurmeet Lal and declared the petitioner innocent. However, after recording the examination-in-chief of PW-1 i.e. husband of respondent No.2, the complainant moved an application under Section 319 Cr.P.C., for summoning the petitioner and others as additional accused. The said application was allowed by the learned Judicial Magistrate Ist Class, Ludhiana vide order dated 29.07.2011 (Annexure P-1), and the revision petition challenging the said order was dismissed by learned Additional Sessions Judge, Ludhiana on 07.01.2015. Hence, this petition.

2.1. Today, Mr. R.S. Randhawa, Advocate has put in appearance on behalf of the petitioner and filed fresh Power of Attorney, which is taken on record.

3. Learned counsel for the petitioner, *inter alia*, contends that the dispute between the parties is purely civil in nature, relating to ownership and possession of immovable property, which has already been adjudicated upon by competent Civil Courts. The complainant’s suits for possession and declaration were dismissed on merits with specific findings that she failed to prove title or enforceable rights over the property, in question. The present criminal proceedings appear to be a counterblast to those failed civil claims, amounting to misuse of criminal process. The only basis for summoning the petitioner under Section 319 Cr.P.C. is a vague and uncorroborated one-line statement



made by PW-1 in examination-in-chief, without cross-examination. Such a statement, especially in light of the petitioner having been declared innocent by the police and not named in the original FIR, does not meet the threshold required under Section 319 Cr.P.C., as laid down in ***“Hardeep Singh vs State of Punjab”, 2014(3) SCC 92***, which requires strong and cogent evidence. Furthermore, the unexplained delay of over a year in filing the application under Section 319 Cr.P.C. reflects *mala fide* intent on the part of the complainant.

4. *Per contra*, learned State counsel opposed the prayer made by the petitioner on the ground that the impugned orders passed by the learned Courts below do not suffer from any illegality or perversity warranting interference. The power under Section 319 Cr.P.C. is intended to ensure that no guilty person escapes liability merely because their name was omitted at the initial stage of investigation. In the present case, the petitioner’s name was specifically mentioned by a prosecution witness (PW-1), alleging fraudulent conduct in the registration of the sale deed.

5. Having heard learned counsel for the parties and after perusing the record, this Court finds force in the arguments advanced by learned counsel for the petitioner. The petitioner was neither named in the FIR nor charge-sheeted after investigation, and was in fact declared innocent by the investigating agency. The summoning of the petitioner under Section 319 Cr.P.C. is based solely on an isolated and untested statement made by PW-1 during examination-in-chief, without the benefit of cross-examination or any supporting material. Such a



statement, in the absence of strong and cogent evidence, does not satisfy the legal threshold required under Section 319 Cr.P.C., as laid down by the Hon'ble Supreme Court in ***Hardeep Singh's case (supra)***. Furthermore, the application under Section 319 Cr.P.C. was filed after an unexplained delay of over one year from the deposition of the said witness. The dispute itself, being purely civil in nature, has already been adjudicated against the complainant in civil proceedings where the learned Courts below have returned categorical findings that she failed to prove any title or enforceable agreement. The criminal proceedings initiated thereafter appear to be an abuse of process, and the impugned orders passed by the learned Courts below, having been passed without proper appreciation of the legal standards and evidence, cannot be sustained. The Hon'ble Apex Court in ***"Hardeep Singh's case (supra)"***, has laid down the degree of satisfaction required at the time of summoning of a person or accused as an additional accused. The operative part of the said judgment, reads as follows:-

"106. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of Cross-Examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. In the absence of such satisfaction, the Court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C the purpose of providing if it



appears from the evidence that any person not being the accused has committed any offence is clear from the words "for which such person could be tried together with the accused". The words used are not 'for which such person could be convicted'. There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused."

And further, while concluding, it was held as follows:-

"117.5 Though under Section 319 (4) (b) Cr.P.C., the accused subsequently impleaded is to be treated as if he had been an accused when the court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under Section 319 Cr.P.C would be the same as for framing a charge. The difference in the degree of satisfaction that will be required for summoning a person under Section 319 Cr.P.C would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial- therefore the degree of satisfaction for summoning of accused (original and subsequent) has to be different."

6. It is to be understood that at the time of finding the merit whatsoever in the application under Section 319 Cr.P.C., more than *prima facie* case is to be established from the evidence led before the Court which is not necessarily to be tested on the anvil of cross-



examination. *Prima facie* standard is much stronger than mere probability of his complicity and the test that has to be applied is one which is more than *prima facie* as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction.

7. In the absence of any material suggesting existence of more than *prima facie* case available during the course of trial of an offence, Courts ought to refrain themselves from exercising its discretionary and extraordinary power under Section 319 Cr.P.C. The Constitutional Bench of the Hon'ble Supreme of India in ***Hardeep Singh's case (supra)*** has held that the power under Section 319 Cr.P.C. is a discretionary and an extraordinary power. It is to be exercised only on the basis of the material available before the Court during a trial and not because the Magistrate or the Sessions Judge is of the opinion that some other accused or person may also be guilty of committing that offence.

8. The trial Court must evaluate the material against the person sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible material, the power under Section 319 Cr.P.C. ought not to be invoked. A two Judge Bench of the Hon'ble Supreme Court in '***Juhru and others Vs. Karim and another***' (2023) 5 SCC 406 speaking through Justice Surya Kant, while relying upon ***Hardeep Singh's case (supra)*** has held as under:-



“16. It is, thus, manifested from a conjoint reading of the cited decision that power of summoning under Section 319 CrPC is not to be exercised routinely and the existence of more than prima facie case is sine qua non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon additional accused under Section 319 CrPC, and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 CrPC ought not to be invoked.”

9. In view of the foregoing discussion, this Court is of the considered opinion that summoning of the petitioner under Section 319 Cr.P.C. was unwarranted and legally unsustainable. Accordingly, the present petition is allowed. The impugned order dated 29.07.2011 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Ludhiana and the order dated 07.01.2015 (Annexure P-2) passed by learned Additional Sessions Judge, Ludhiana are hereby set aside.

(HARPREET SINGH BRAR)
JUDGE

03.05.2025

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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No